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July 25, 1991

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
Washington, D.C. 20554

PR 92-78

Re: RM-7749

Dear Ms. Searcy:

Transmitted herewith on behalf of O'Brien Communications Inc. is an original and 5 copies of its COMMENTS in the above-referenced proceeding.

Should any questions arise with respect to this matter, please communicate directly with this office.

Respectfully submitted,


Kevin F. O'Brien

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JUL 25 1991

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 90.135(a)(8))
of the Commission's Rules and)
Regulations Concerning Modification)
of Licenses for Paging Operations)

RM-7749

COMMENTS OF O'BRIEN COMMUNICATIONS INC.

O'Brien Communications Inc. ("OCI") hereby submits its comments in the above-captioned Petition for Rule Making ("Petition") which proposes to amend Section 90.135(a)(8) of the Commission's Rules. Specifically, Petitioner requests that the Rules be amended to exempt Private Carrier Paging ("PCP") licensees from the requirements of Section 90.135(a)(8).

I. Introduction

OCI is a communications consulting firm which represents a number of common carrier and private carrier clients before the Commission. OCI is also actively involved in consulting to clients on technical matters, operational issues and system expansion plans. The provision of these services to clients has allowed OCI to become very familiar with all aspects of the private carrier paging industry.

Section 90.135(a)(8) imposes upon private carrier paging licensees the following requirement:

90.135 MODIFICATION OF LICENSE

(a) The following changes in authorized stations require an application for modification of license:

....
(8) Change by 50 or more units in the number of paging receivers.

As the Commission is aware, the private carrier paging industry has experienced wide acceptance from the business community and has grown at a phenomenal pace during the past three years. Many PCP operators now service more than 20,000 users and a great many more well over a 1000 users. Due to this wide acceptance the Commission needs to amend its Rules to reflect the changes and growth within the PCP industry.

OCI fully supports Petitioner with respect to that portion of its Petition which requests that PCPs be exempted from the modification requirements of Section 90.135(a)(8) of the Rules.

II. Private Carrier Paging Licensees Operating On
Paging Only Channels Should Be Exempt From
The Modification Requirements of Section 90.135(a)(8)

A. The Rule Serves No Useful Purpose

Within its purview as the Commission certified frequency coordinator, NABER has broad discretion in requesting information from PCP licensees concerning loading, number and type of paging

units in service and occupied airtime. The only time that this type of information is either useful or required by NABER is during the coordination process, at which time it is free to request it. Further, NABER has long encouraged PCP licensees to keep it informed of subscriber counts, and many licensees do supply that information on a periodic basis. There is absolutely no need for the Commission to know how many subscriber units are in service unless a coordination for a particular channel is denied by NABER and the applicant appeals the coordination decision to the Commission. In those cases, all of the loading and subscriber count information has already been accumulated by the NABER staff and it is forwarded to the Commission for its analysis and decision. In any event, in view of the current state of the Commission's database with respect to this information, the Commission staff would certainly not rely on the information therein to reach a decision.

Since the subject Rule serves no useful purpose with respect to PCP licensee operations and in view of the fact that the information which would be accumulated by enforcement of that section is available on demand, PCP licensees should be exempted from the provisions of Section 90.135(a)(8).

B. Enforcement of Section 90.135(a)(8) Would Overwhelm The Commission's Limited Resources And Unduly Burden PCP Licensees

Enforcement of Section 90.135(a)(8) with respect to PCP licensees would result in such a flood of applications filed with the Commission's Private Radio Licensing Division that all other processing work would be virtually halted.

For example, the recent Radio Communication Reports ("RCR") listing of the Top 20 PCP Operators shows that those twenty operators have more than 350,000 pagers in service. If it is conservatively assumed that the industry growth rate for 1991 is only 25%, that will result in an additional 87,500 pagers being placed in service during 1991. That growth alone would result in 1750 applications being filed with the Commission during 1991. When churn is considered, and it becomes a major factor during economic downturns, that number of applications increases. And these numbers consider only the Top 20 PCPs; when the hundreds of other PCP licensees are also filing the applications, most on a weekly or bi-weekly basis, the number of applications which would be filed with the Commission to comply with this rule section would likely total more than 30,000 per year.

In addition, there would be a tremendous economic burden placed on PCPs to comply with this Rule section. Many large carriers place an additional 400 to 500 units in service each week. That would require the filing of 8 to 10 applications for modification each week, along with the NABER coordination fee of \$185.00 and the FCC filing fee of \$35.00. This would result in some large carriers paying more than \$100,000.00 per year in fees to file data which no one needs.

In view of the tremendous regulatory and economic burden which would be placed on both the Commission and PCP licensees, PCPs should be exempted from the provisions of Section 90.135(a)(8).

C. The Number Of Paging Units In Service Does Not Serve As A Useful Benchmark For Any Type Of Channel Efficiency Analysis

With the current state of the technology in paging signal distribution, the old benchmarks of analysis with respect to paging system efficiency and channel occupancy are no longer valid. For example, the occupied airtime of a system having 500 voice units may be much greater than that of a digital-only system utilizing maximum batch efficiency which is serving 15,000 digital units. Therefore, having an accumulation of data showing the number of paging units in service would in itself provide no guidance in analyzing channel efficiency, occupied airtime or channel availability.

Since the data required by Section 90.135(a)(8) cannot be used for its intended purpose when analyzing PCP operations, that Rule section should be amended to exempt PCP licensees.

III. Private Carrier Paging Licensees Are Not Required
By Section 90.179(e) Of The Rules To Submit User
Lists On An Annual Basis

OCI Strongly disagrees with Petitioner's assertion that all PCP licensees are subject to the annual reporting requirements of Section 90.179(e) of the Commission's Rules. Nearly all PCP operations are fully inter-connected systems wherein paging is initiated directly from telephone positions in the public switched telephone network.

As clarified at Section 90.490(c) of the Commission's Rules, only those stations which are multiple licensed or otherwise shared by authorized users are subject to the reporting requirements of Section 90.179(e). A typical inter-connected PCP operation allows subscriber access only to DID trunks at a paging terminal. At no time in a system of this type is a PCP subscriber allowed to "control" the station. Control of station operation is always in the hands of the licensee.

Since most inter-connected PCP systems of the type described are not "shared" stations, Section 90.179(e) of the Commission's Rules does not apply to "all" PCPs as asserted by Petitioner. Accordingly, OCI strongly suggests that the Commission disregard Petitioner's remarks with respect to that Rule Section.

IV. Conclusions


For the reasons set forth above, OCI is strongly in favor of the proposed amendment to Section 90.135(a)(8) and urges that the Commission take quick and immediate action to adopt such a change.

Respectfully submitted,

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Phone: (703) 354-5195

July 25, 1991

By:


Kevin F. O'Brien
President

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CERTIFICATE OF SERVICE

I Kevin F. O'Brien do hereby certify that I have on this 25th Day of July, 1991 sent by first class mail, postage prepaid, a copy of the attached COMMENTS to the following:

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